

FIRST REGULAR SESSION

HOUSE BILL NO. 523

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOLLER.

Read 1st time January 24, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

0982L.011

AN ACT

To repeal sections 226.540, 226.550 and 226.585, RSMo 2000, relating to highway beautification, and to enact in lieu thereof three new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 226.540, 226.550 and 226.585, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 226.540, 226.550 and 226.585, to read as follows:

226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of any interstate or primary highway in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed;

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 as part of the National Highway System by the National Highway System Designation Act of
16 1995 and those highways subsequently designated as part of the National Highway System and
17 the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor
18 vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

19 (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures,
20 an official traffic sign, device, or signal;

21 (2) Size of signs:

22 (a) The maximum area for any one sign shall be eight hundred square feet with a
23 maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border
24 and trim but excluding the base or apron, supports, and other structural members. The area shall
25 be measured as established **herein and** in rules promulgated by the commission. In determining
26 the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions
27 installed for the length of a specific display contract shall not be included in calculating the size
28 of the permanent display; provided the actual square footage of such temporary cutouts or
29 extensions may not exceed thirty-three percent of the permanent display area;

30 (b) The maximum size limitations shall apply to each side of a sign structure, and signs
31 may be placed back to back, double faced, or in V-type construction with not more than two
32 displays to each facing, but such sign structure shall be considered as one sign;

33 (c) After August 28, 1999, no new sign structure shall be erected in which two or more
34 displays are stacked one above the other. Stacked structures existing on or before August 28,
35 1999, in accordance with sections 226.500 to 226.600 shall not be deemed **legal** nonconforming
36 [for failure to meet the requirements of this section until such sign's structure is modified,
37 repaired, replaced or rebuilt] **and may be maintained in accordance with the provisions of**
38 **sections 226.500 to 226.600**. Structures displaying more than one display on a horizontal basis
39 shall be allowed, provided that total display areas do not exceed the maximum allowed square
40 footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this
41 section;

42 (3) Spacing of signs[:

43 (a) **on all** interstate highways [and], freeways [on the] **and nonfreeway** federal-aid
44 primary highways as of June 1, 1991, and all highways designated as part of the National
45 Highway System by the National Highway System Designation Act of 1995 and those highways
46 subsequently designated as part of the National Highway System:

47 [a.] (a) No sign structure shall be erected within [five hundred] **one thousand** feet of an
48 existing sign on the same side of the highway[;]. **Signs erected in accordance with the**
49 **provisions of sections 226.500 to 226.600 prior to the effective date of this section which fail**
50 **to meet the requirements of this section shall be deemed legal nonconforming as defined**

51 **herein, provided that the use of temporary cutouts and extensions on such nonconforming**
52 **signs is allowed under Missouri highway and transportation commission and Federal**
53 **Highway Administration regulations. In the event federal or state regulations prohibit the**
54 **use of temporary cutouts or extensions on nonconforming signs, all signs erected prior to**
55 **the effective date of this section, in compliance with sections 226.500 to 226.600 shall be**
56 **considered conforming for all purposes and may be maintained or rebuilt in its present**
57 **location.**

58 [b.] (b) Outside of incorporated municipalities, no structure may be located adjacent to
59 or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five
60 hundred feet shall be measured from the beginning or ending of the pavement widening at the
61 exit from or entrance to the main traveled way. For purpose of this subparagraph, the term
62 "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall
63 not be considered "incorporated municipalities" if it is finally determined that such would have
64 the effect of making Missouri be in noncompliance with the requirements of Title 23, United
65 States Code, Section 131;

66 [(b) Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways
67 designated as part of the National Highway System by the National Highway System Designation
68 Act of 1995 and those highways subsequently designated as part of the National Highway
69 System:

70 a. Outside incorporated municipalities, no structure shall be erected within five hundred
71 feet of an existing sign on the same side of the highway. Sign structures existing prior to August
72 28, 1999, which complied with the requirements of this section when erected shall not be
73 deemed nonconforming for failure to comply with the spacing provisions of this section until
74 such sign's structure is modified, repaired, replaced or rebuilt;

75 b. Within incorporated municipalities, no structure shall be erected within five hundred
76 feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with
77 the requirements of this section when erected shall not be deemed nonconforming for failure to
78 comply with the spacing provisions of this section until such sign's structure is modified,
79 repaired, replaced or rebuilt;]

80 (c) The spacing between structure provisions of subdivision (3) of this section do not
81 apply to signs which are separated by buildings, natural surroundings, or other obstructions in
82 such manner that only one sign facing located within such distance is visible at any one time.
83 Directional or other official signs or those advertising the sale or lease of the property on which
84 they are located, or those which advertise activities on the property on which they are located,
85 including products sold, shall not be counted, nor shall measurements be made from them for
86 the purpose of compliance with spacing provisions;

87 (d) No sign shall be located in such manner as to obstruct or otherwise physically
88 interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or
89 physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting
90 traffic;

91 (e) The measurements in this section shall be the minimum distances between outdoor
92 advertising sign structures measured along the nearest edge of the pavement between points
93 directly opposite the signs along each side of the highway and shall apply only to outdoor
94 advertising sign structures located on the same side of the highway involved;

95 (4) As used in this section, the words "unzoned commercial and industrial land" shall
96 be defined as follows: that area not zoned by state or local law or ordinance and on which there
97 is located one or more permanent structures used for a commercial business or industrial activity
98 or on which a commercial or industrial activity is actually conducted together with the area along
99 the highway extending outwardly six hundred feet from and beyond the edge of such activity.
100 All measurements shall be from the outer edges of the regularly used improvements, buildings,
101 parking lots, landscaped, storage or processing areas of the commercial or industrial activity and
102 along and parallel to the edge of the pavement of the highway. [On nonfreeway federal-aid
103 primary highways as of June 1, 1991, and all highways designated as part of the National
104 Highway System by the National Highway System Designation Act of 1995 and those highways
105 subsequently designated as part of the National Highway System, where there is an unzoned
106 commercial or industrial area on one side of the road as described in this section, the term
107 "unzoned commercial or industrial land" shall also include those lands directly opposite on the
108 other side of the highway to the extent of the same dimensions.] Unzoned land shall not include:

109 (a) Land on the opposite side of an interstate [or freeway] primary **or a national**
110 **highway system** highway from an unzoned commercial or industrial area as defined in this
111 section, **unless the opposite side of the highway is a separate unzoned commercial area;**

112 (b) Land zoned by a state or local law, regulation, or ordinance;

113 [(c) Land on the opposite side of a nonfreeway primary highway which is determined by
114 the proper state authority to be a scenic area;]

115 (5) "Commercial or industrial activities" as used in this section means those which are
116 generally recognized as commercial or industrial by zoning authorities in this state, except that
117 none of the following shall be considered commercial or industrial:

118 (a) Outdoor advertising structures;

119 (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including
120 seasonal roadside fresh produce stands;

121 (c) Transient or temporary activities;

122 (d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way

123 or not visible from the main traveled way;

124 (e) Activities conducted in a building principally used as a residence;

125 (f) Railroad tracks and minor sidings;

126 (6) The words "unzoned commercial or industrial land" shall also include all areas not
127 specified in this section which constitute an "unzoned commercial or industrial area" within the
128 meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may
129 be amended. As used in this section, the words "zoned commercial or industrial area" shall refer
130 to those areas zoned commercial or industrial by the duly constituted zoning authority of a
131 municipality, county, or other lawfully established political subdivision of the state, or by the
132 state **and upon which there is located one or more permanent structures used for a**
133 **commercial or industrial activity and on which a commercial or industrial activity is**
134 **actually conducted together with the area along the highway extending outwardly six**
135 **hundred feet from and beyond the edge of such activity.** [Unzoned] Commercial or industrial
136 activities as used in this section are limited to those activities:

137 (a) In which the primary use of the property is commercial or industrial in nature;

138 (b) Which are clearly visible from the highway and recognizable as a commercial
139 business;

140 (c) Which are permanent as opposed to temporary or transitory and of a nature that
141 would customarily be restricted to commercial or industrial zoning in areas comprehensively
142 zoned; and

143 (d) In determining whether the primary use of the property is commercial or industrial
144 pursuant to paragraph (a) of this subdivision, the state highways and transportation commission
145 shall consider the following factors:

146 a. The presence of a permanent and substantial building;

147 b. The existence of utilities and [required] **local** business licenses, if any, for the
148 commercial activity;

149 c. On-premise signs or other identification;

150 d. [Communication with the business owner that can be accomplished at regular intervals
151 either in person, by telephone, by fax machine, by electronic mail or by some other business
152 means;] **The presence of an owner or employee on the premises for at least twenty hours**
153 **per week.**

154 (7) In zoned commercial and industrial areas, whenever a state, county or municipal
155 zoning authority has adopted laws or ordinances which include regulations with respect to the
156 size, lighting and spacing of signs, which regulations are consistent with the intent of sections
157 226.500 to 226.600 and with customary use, then from and after the effective date of such
158 regulations, and so long as they shall continue in effect, the provisions of this section shall not

159 apply to the erection of signs in such areas. Notwithstanding any other provisions of this section,
160 after August 28, 1992, with respect to any outdoor advertising which is regulated by the
161 provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

162 (a) No county or municipality shall issue a permit to allow a regulated sign to be newly
163 erected without a permit issued by the state highways and transportation commission;

164 (b) A county or municipality may charge a reasonable one-time permit or inspection fee
165 to assure compliance with local wind load and electrical requirements when the sign is first
166 erected, but a county or municipality may not charge a permit or inspection fee for such sign after
167 such initial fee. Changing the display face or performing routine maintenance shall not be
168 considered as erecting a new sign;

169 (8) The state highways and transportation commission on behalf of the state of Missouri,
170 may seek agreement with the Secretary of Transportation of the United States under Section 131
171 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in
172 conformance with that Section 131 and provides effective control of outdoor advertising signs
173 as set forth therein. If such agreement cannot be reached and the penalties under subsection (b)
174 of Section 131 are invoked, the attorney general of this state shall institute proceedings described
175 in subsection (1) of that Section 131.

226.550. 1. (1) No outdoor advertising which is regulated by subdivision (1), (3) or (4)
2 of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after
3 August 28, 1992, without a one-time permanent permit issued by the state highways and
4 transportation commission. Application for permits shall be made to the state highways and
5 transportation commission on forms furnished by the commission and shall be accompanied by
6 a permit fee of twenty-eight dollars and fifty cents for all signs; except that, tax-exempt religious
7 organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as
8 defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in
9 subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision
10 (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square
11 feet without payment of the fee. In the event a permit holder fails to erect a sign structure within
12 twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior
13 to any construction.

14 (2) **On or after the effective date of this section, no new permits for outdoor**
15 **advertising structures shall be issued unless the applicant voluntarily surrenders or**
16 **revokes two or more existing outdoor advertising permits for each new permit until such**
17 **time as the overall number of legally permitted and erected structures on Missouri's**
18 **interstate, federal-aid primary highways as of June 1, 1991, and all highways designated**
19 **as part of the national highway system by the National Highway Designation Act of 1995**

20 is eleven thousand or less. The square footage of the new structure may not exceed the
21 total square footage of the permits surrendered. The requirement for permit applicants
22 to void two or more permits for each permit issued shall be automatically and permanently
23 repealed and terminated immediately upon the release of the Missouri highway and
24 transportation commission's annual report indicating the overall number of sign structures
25 on Missouri's primary, interstate and national highway system's highways is eleven
26 thousand or less.

27 (3) Outdoor advertising permit holders who voluntarily or involuntarily surrender
28 existing permits but do not seek to immediately obtain a new permit may receive credit for
29 each outdoor advertising permit surrendered which may be used to obtain permits at any
30 time during which subdivision (2) of this subsection is in effect.

31 (4) The Missouri highway and transportation commission shall publish and release
32 an annual report indicating the overall number of permitted off-premises outdoor
33 advertising structures on Missouri's interstate, federal-aid primary highways as of June
34 1, 1991, and all highways designated as part of the national highway system by the
35 National Highway Designation Act of 1995. Said report shall indicate the number of signs
36 as of July first of each calendar year and shall be publicly released by September first of
37 each calendar year.

38 2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section
39 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall
40 be maintained without a one-time permanent permit for outdoor advertising issued by the state
41 highways and transportation commission. If a one-time permanent permit was issued by the state
42 highways and transportation commission after March 30, 1972, and before August 28, 1992, it
43 is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for
44 a lawfully erected and lawfully existing sign by the state highways and transportation
45 commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit
46 shall be issued by the commission for each sign which is lawfully in existence on the day prior
47 to August 28, 1992, upon application and payment of a permit fee of twenty-eight dollars and
48 fifty cents. All applications and fees due pursuant to this subsection shall be submitted before
49 December 31, 1992.

50 3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in
51 existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the
52 following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection
53 1 of section 226.580:

54 (1) All signs erected prior to January 1, 1968;

55 (2) All signs erected before March 30, 1972, but on or after January 1, 1968, which

56 would otherwise be lawful but for the failure to have a permit for such signs prior to March 30,
57 1972, except that any sign or structure which was not in compliance with sizing, spacing,
58 lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the
59 revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully
60 existing sign or structure;

61 (3) All signs erected after March 30, 1972, which are in conformity with sections
62 226.500 to 226.600;

63 **(4) All signs erected in compliance with section 226.500 to 226.600 prior to the**
64 **effective date of this section.**

65 4. On or after August 28, 1992, the state highways and transportation commission may,
66 in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial
67 inspection fee every two years after a state permit has been issued. Biennial inspection fees due
68 after August 28, 1992, shall be twenty-eight dollars and fifty cents; except that, tax- exempt
69 religious organizations as defined in subdivision (11) of section 313.005, RSMo, service
70 organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations
71 as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined
72 in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

73 5. In order to effect collection from a sign owner of delinquent and unpaid biennial
74 inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant
75 to section 226.580, the state highways and transportation commission may require any delinquent
76 fees to be paid before a permit is issued to the delinquent sign owner for any new sign.

77 6. Sign owners or owners of the land on which signs are located must apply to the state
78 highways and transportation commission for biennial inspection and submit any fees as required
79 by this section on or before December 31, 1992. For a permitted sign which does not have a
80 permit, a permit shall be issued at the time of the next biennial inspection.

81 7. The state highways and transportation commission shall deposit all fees received for
82 outdoor advertising permits and inspection fees in the state road fund, keeping a separate record
83 of such fees, and the same may be expended by the commission in the administration of sections
84 226.500 to 226.600.

226.585. The state transportation department may cut and trim any vegetation on the
2 highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected
3 billboard, or the highways and transportation commission shall promulgate reasonable rules and
4 regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way
5 by the owner of such billboard. **The right to a vegetation permit shall be automatic, absent**
6 **a showing of clear and convincing proof that such a permit would pose a risk to public**
7 **safety.** Such rules and regulations shall be promulgated within twelve months after August 28,

8 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed
9 by section 226.550 until such rules are promulgated, and such rules may include authority to
10 charge a reasonable fee for such **[permission] permit**. This section shall not apply if its
11 implementation would have the effect of making Missouri be in noncompliance with
12 requirements of Title 23, United States Code, section 131.

Section B. Because immediate action is necessary to provide for the safety of travelers
2 on the roads of this state, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, section A of this act shall be in full force
5 and effect upon its passage and approval.